

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BANKS,

Petitioner,

Case Number: 07-12821

v.

HONORABLE AVERN COHN

NICK J. LUDWICK,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION
AND
GRANTING RESPONDENT'S MOTION TO DISMISS
AND
DENYING PETITIONER'S MOTION FOR SUMMARY JUDGMENT AS MOOT
AND
AND DISMISSING CASE

I.

This is a habeas case under 28 U.S.C. § 2254. Petitioner Ronald Banks is a state prisoner convicted in 1981 of armed robbery and associated firearms offenses, for which he is serving a sentence of 35-70 years. Petitioner claims he is incarcerated in violation of his constitutional rights. He specifically claims that he was denied his right to speedy trial under both the Sixth Amendment and the Interstate Agreement on Detainers, and that his sentence was improper. The matter was referred to a magistrate judge for all proceedings. Respondent filed a motion to dismiss on the grounds that the petition is barred by the one year statute of limitations. Petitioner filed a motion for summary judgment. The magistrate judge issued a report and

recommendation (MJRR), recommending that Respondent's motion be granted because the petition was not timely filed and that Petitioner's motion be denied as moot. Before the Court are Petitioner's objections to the MJRR.

II.

Having reviewed the MJRR de novo in light of Petitioner's objections, the Court finds that the magistrate judge did not err in concluding that the petition is untimely. In Petitioner's objection, he argues that the one year statute of limitations does not apply to him because his rights were violated. Petitioner's argument, which is not supported by any authority, is incorrect. The one year statute of limitations applies to all habeas petitions. Petitioner's argument is really a request for equitable tolling, to which the magistrate judge correctly found Petitioner is not entitled.

Accordingly, Respondent's motion to dismiss is GRATED. Given this determination, Petitioner's motion for summary judgment is DENIED AS MOOT. This case is DISMISSED.

SO ORDERED.

Dated: June 11, 2008

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Ronald Banks 225311, St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880 and the attorneys of record on this date, June 11, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160